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Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 5, 2007

Date of Deposit

[Handwritten Signature]
Signature

Our Case No. 9974-56 (BH2090.C1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Paasche et al.

Serial No. 09/714,739

Filing Date: **November 16, 2000**

Title: **SYSTEM AND METHOD FOR MANAGING
RECURRING ORDERS IN A COMPUTER
NETWORK**

)
)
)
) Examiner: **James H. Zurita**
)
) Group Art Unit No. **3625**
)
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)
)
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)

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(b)**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A notice of allowance was issued for the present application on **June 6, 2007** indicating that the issue fee is due on **September 6, 2007**. The issue fee is being submitted for the present application in conjunction with this request for reconsideration of the patent term adjustment. The Patent Application Information Retrieval (PAIR) system and the notice of allowance both

09/07/2007 SFELEKEE 00000031 231925 09714739
01 FC:1455 200.00 DA

indicate a patent term adjustment that was calculated by the U.S. Patent office pursuant to 37 C.F.R. 1.701 of 0 days. A copy of Notice of Allowance for the present application is included herewith as Exhibit A.

Applicant's Attorney believes that the patent term adjustment should be 0 days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(b). Please charge the petition fee pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for the present application was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicant's Attorney believe that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for the present application as described in detail below. The present application is not subject to a terminal disclaimer.

Reduction in Period of Adjustment pursuant to 37 C.F.R. § 1.704

Period of adjustment pursuant to 37 C.F.R. § 1.704(b)

Pursuant to 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date a corresponding reply was filed.

In the present application, an office action was mailed on **December 21, 2005** (attached as Exhibit C). The 3 month date was therefore **March 21, 2006**. A Supplemental Information Disclosure Statement was filed with the U.S. Patent and Trademark office on **April 7, 2006** as evidenced by the stamped image file wrapper copy of the Information Disclosure Statement attached as Exhibit D. However, the response does not appear in the PAIR system Patent Term Adjustment History, attached as Exhibit B. Accordingly, the delay caused by the filing of the information disclosure statement is believed to be **17** days. Applicant's Attorney respectfully requests correction of the date of receipt of the reply and re-calculation of the patent term adjustment taking the corrected date into account.

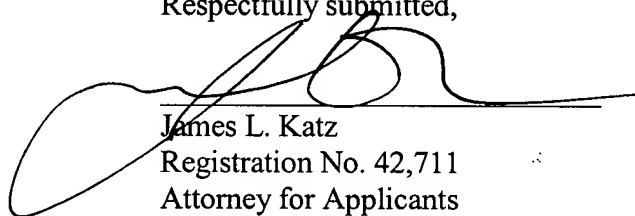
In the present application, a Request for Continued Examination was filed in the U.S. Patent and Trademark Office on **February 8, 2007** as evidenced by the copy of the Express mail receipt attached as Exhibit E. However, the date the Request for Continued Examination was filed is indicated in the PAIR system Patent Term Adjustment History, attached as Exhibit B as received on **February 9, 2007**. Accordingly, the delay caused by the filing of the Request for Continued Examination is believed to be **92** days. Applicant's Attorney respectfully requests correction of the filing date of the Request for Continued Examination and re-calculation of the patent term adjustment to take the corrected date into account.

In the present application, a information disclosure statement was filed in the U.S. Patent and Trademark Office on **March 21, 2007** as evidenced by the copy of the stamped image file wrapper copy of the Information Disclosure Statement attached as Exhibit F. With respect to this information disclosure statement, Applicant certified that each reference was cited in a communication received from foreign patent office in a counterpart application that was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing

of the information disclosure statement. Accordingly, the delay caused by the filing of the information disclosure statement is believed to be 0 days. Applicant's Attorney respectfully requests re-calculation of the patent term adjustment to take the corrected date into account.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned attorney for the Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,



James L. Katz
Registration No. 42,711
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200

Exhibit A



UNITED STATES PATENT AND TRADEMARK OFFICE

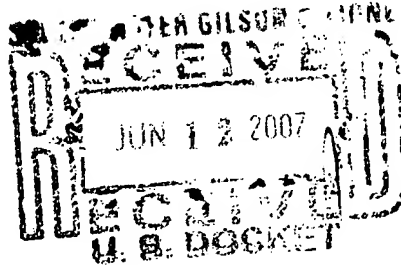
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



NOTICE OF ALLOWANCE AND FEE(S) DUE

757 7590 06/06/2007

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610



EXAMINER: ZURITA, JAMES H
ART UNIT: 3625
PAPER NUMBER

DATE MAILED: 06/06/2007

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.

09/714,739 11/16/2000 Thomas D. Paasche 9974/56 (BH2090.P2) 5204

TITLE OF INVENTION: SYSTEM AND METHOD FOR MANAGING RECURRING ORDERS IN A COMPUTER NETWORK

Table with 7 columns: APPLN. TYPE, SMALL ENTITY, ISSUE FEE DUE, PUBLICATION FEE DUE, PREV. PAID ISSUE FEE, TOTAL FEE(S) DUE, DATE DUE

nonprovisional NO \$1400 \$0 \$0 \$1400 09/06/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

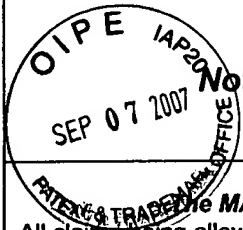
If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



Notice of Allowability

Application No.	Applicant(s)	
09/714,739	PAASCHE ET AL.	
Examiner	Art Unit	
James H. Zurita	3625	

The **MAILING DATE** of this communication appears on the cover sheet with the correspondence address-- All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 17 January 2007.
2. The allowed claim(s) is/are 157-160, 163-176 and 178-199.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has **THREE MONTHS FROM THE "MAILING DATE"** of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in **ABANDONMENT** of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. A **SUBSTITUTE OATH OR DECLARATION** must be submitted. Note the attached **EXAMINER'S AMENDMENT** or **NOTICE OF INFORMAL PATENT APPLICATION (PTO-152)** which gives reason(s) why the oath or declaration is deficient.
5. **CORRECTED DRAWINGS** (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. **DEPOSIT OF and/or INFORMATION** about the deposit of **BIOLOGICAL MATERIAL** must be submitted. Note the attached Examiner's comment regarding **REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL**.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>21 March 2007</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 17 January 2007 has been entered.

Response to Amendment

On 17 January 2007, applicant amended claims 157, 174, 182, 192, 195 and 197. Claims 157-160, 163-176, 179-199 are pending and are allowed.

Reasons for Allowance

Applicant's arguments and amendments are consistent with the disclosures.

The following is an examiner's statement of reasons for allowance:

Prior art does not specifically disclose the features cited in representative claim 192, including an environment for establishing an interactive online registration process between the client browser system and the server computer so that a user may register with an electronic commerce system as a First Participation Category, a Second Participation Category or a Third Participation Category, wherein a First Participation Category is not eligible to earn compensation and is eligible to buy products or services

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at a First participation Category price, wherein a Second Participation Category is not eligible to earn compensation and is eligible to buy products or services at a Second Participation Category price, and wherein a Third Participation Category is eligible to buy products or services at a Third Participation Category price and is eligible to earn compensation;

providing a plurality of web files operatively coupled to a web site associated with the electronic commerce system; allowing access to a plurality of electronic commerce system products or services to the registered First Participation Category, Second Participation Category, or Third Participation Category via at least one of the plurality of web files;

allowing access to a plurality of electronic commerce system products or services to the registered First Participation Category, Second Participation Category, or Third Participation Category via at least one of the plurality of web files; and

creating standing orders, including the steps of:

- receiving a first order by said electronic commerce system via a said network,
- a browser system located at a remote client computer, the first order being received from said registered user via said browser system, the first order comprising a request to purchase, and have provided to the registered user, one or more of a said plurality of electronic commerce system products or services
- generating a first profile, said first profile comprising said first order and specifying a recurrence for said first order; providing said one or more of said plurality of electronic commerce system products or services to said registered user according to said first profile; and
- causing said first order to automatically recur one or more times according to said specification.

Discussion of Closest Prior Art

The closest US prior art of record is *Edelson* (US 5737539). Edelson discloses a [medication] prescription creation system, permitting creation of a single prescription

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to be divided into several components and refills. However, is silent with respect to a membership structure and varying levels of compensation and pricing.

The closest non-patent literature is previously cited **Lettuce**. However, as applicant points out, Lettuce generally describes the services and capabilities of the PeaPod online food shopping company. However, Lettuce does not teach and fairly suggest registering users in the manner claimed by Applicants,

The closest non-US prior art of record is Shell (EP 000844577A2), published on 27 May 1998 by the European Patent Office from an application filed on 3 November 1997. Shell discloses multi-level marketing, but does not present the combination of features claimed by applicant, including membership structure and creating standing orders.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
27 April 2007

James Zurita
Primary Examiner



FORM PTO-1449	SERIAL NO. 09/714,774	CASE NO. 9974/56 (Altcor Ref. No. BH2090.C1)
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE November 16, 2000	GROUP ART UNIT 3625
(use several sheets if necessary)	APPLICANT(S): Thomas D. Paasche et al.	

REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/ SUBCLASS	FILING DATE

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES OR NO
JZ	D1 JP H10-21304	01/23/1998	Japan		yes

OTHER ART - NON PATENT LITERATURE DOCUMENTS

EXAMINER INITIAL	<small>(Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.</small>				
JZ	D2	Patent Abstract of Japanese Application No. JP-A-2000-250990 "Virtual Gift System and Gift System", date of publication 09/14/2000, 1 page.			
JZ	D3	Patent Abstract of Japanese Application No. JP-A-H10-207940 "Network Shopping Device and Network Shopping Method", date of publication 08/07/1998, 1 page.			

EXAMINER <i>James Zunt</i>	DATE CONSIDERED <i>4/27/07</i>
-------------------------------	-----------------------------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Notice of References Cited	Application/Control No. 09/714,739	Applicant(s)/Patent Under Reexamination PAASCHE ET AL.	
	Examiner James H. Zurita	Art Unit 3625	Page 1 of 1

U.S. PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-			
B	US-			
C	US-			
D	US-			
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

FOREIGN PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N	EP 0-844-577-A2	05-1998	EPO	Shell	G06F 17/60
O					
P					
Q					
R					
S					
T					

NON-PATENT DOCUMENTS

*	Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
U	
V	
W	
X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
757 7590 06/06/2007
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
EXAMINER
ZURITA, JAMES H
ART UNIT 3625 PAPER NUMBER
DATE MAILED: 06/06/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Exhibit B

09/714,739	SYSTEM AND METHOD FOR MANAGING RECURRING ORDERS IN A COMPUTER NETWORK	07-06- 2007::18:41:26
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/714,739

Filing or 371(c) Date:	11-16-2000	USPTO Delay (PTO) Delay (days):	421
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	511
Post-Issue Petitions (days):	+0	Total PTA (days):	0
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
06-06-2007	Mail Notice of Allowance		
04-30-2007	Document Verification		
04-30-2007	Notice of Allowance Data Verification Completed		
03-21-2007	Information Disclosure Statement considered		
03-21-2007	Information Disclosure Statement (IDS) Filed		40
03-21-2007	Information Disclosure Statement (IDS) Filed		
02-26-2007	Date Forwarded to Examiner		↑
02-26-2007	Date Forwarded to Examiner		↑
02-09-2007	Request for Continued Examination (RCE)		93
02-26-2007	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		↑
02-09-2007	Workflow - Request for RCE - Begin		↑
02-07-2007	Mail Advisory Action (PTOL - 303)		↑
02-06-2007	Advisory Action (PTOL-303)		↑
01-17-2007	Rule 47 / 48 Correction of Inventorship Papers Filed		↑
01-26-2007	Date Forwarded to Examiner		↑
01-17-2007	Amendment after Final Rejection		↑
01-17-2007	Request for Extension of Time - Granted		↑
08-08-2006	Mail Final Rejection (PTOL - 326)	18	
08-04-2006	Final Rejection	↑	
03-28-2006	Date Forwarded to Examiner	↑	
03-21-2006	Response after Non-Final Action	↑	
12-21-2005	Mail Non-Final Rejection	81	
12-12-2005	Non-Final Rejection	↑	
10-12-2005	Information Disclosure Statement considered	↑	
10-12-2005	Information Disclosure Statement (IDS) Filed		133
10-12-2005	Information Disclosure Statement (IDS) Filed		
06-01-2005	Reference capture on IDS		↑
06-01-2005	Information Disclosure Statement (IDS) Filed		↑
06-01-2005	Information Disclosure Statement (IDS) Filed		↑
06-06-2005	Date Forwarded to Examiner		↑

06-06-2005	Date Forwarded to Examiner	↑
06-01-2005	Request for Continued Examination (RCE)	92
06-06-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	↑
06-01-2005	Request for Extension of Time - Granted	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-01-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-01-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-01-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-01-2005	Workflow - Request for RCE - Begin	↑
03-09-2005	Mail Advisory Action (PTOL - 303)	↑
03-07-2005	Advisory Action (PTOL-303)	↑
02-16-2005	Date Forwarded to Examiner	↑
01-27-2005	Amendment after Final Rejection	↑
06-17-2002	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
05-18-2001	Preliminary Amendment	↑
05-03-2001	Oath or Declaration Filed (Including Supplemental)	↑
11-16-2000	Preliminary Amendment	↑
02-16-2005	IFW TSS Processing by Tech Center Complete	↑
01-27-2005	Workflow incoming amendment IFW	↑
12-01-2004	Mail Final Rejection (PTOL - 326)	↑
11-29-2004	Final Rejection	
09-27-2004	Date Forwarded to Examiner	
08-24-2004	Response after Non-Final Action	55
08-24-2004	Request for Extension of Time - Granted	↑
08-24-2004	Workflow incoming amendment IFW	↑
03-31-2004	Mail Non-Final Rejection	↑
03-22-2004	Non-Final Rejection	
01-07-2004	Date Forwarded to Examiner	
01-07-2004	Date Forwarded to Examiner	
12-08-2003	Request for Continued Examination (RCE)	95
01-07-2004	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	↑
12-08-2003	Request for Extension of Time - Granted	↑
12-08-2003	Workflow - Request for RCE - Begin	↑
10-30-2003	Mail Advisory Action (PTOL - 303)	↑

10-29-2003	Advisory Action (PTOL-303)		↑
10-21-2003	Date Forwarded to Examiner		↑
09-02-2003	Amendment after Final Rejection		↑
06-04-2003	Mail Final Rejection (PTOL - 326)		↑
06-02-2003	Final Rejection		
03-07-2003	Information Disclosure Statement (IDS) Filed		
03-07-2003	Information Disclosure Statement (IDS) Filed		
03-18-2003	Date Forwarded to Examiner		
03-07-2003	Response after Non-Final Action		3
12-04-2002	Mail Non-Final Rejection	322	
12-02-2002	Non-Final Rejection		↑
09-13-2002	Information Disclosure Statement (IDS) Filed		↑
09-13-2002	Information Disclosure Statement (IDS) Filed		↑
06-24-2002	Preliminary Amendment		↑
04-23-2002	Case Docketed to Examiner in GAU		↑
01-10-2002	Case Docketed to Examiner in GAU		↑
11-16-2000	Preliminary Amendment		↑
05-03-2001	Information Disclosure Statement (IDS) Filed		↑
05-03-2001	Information Disclosure Statement (IDS) Filed		↑
05-18-2001	Preliminary Amendment		↑
09-01-2001	Case Docketed to Examiner in GAU		↑
08-08-2001	Application Dispatched from OIPE		↑
08-07-2001	Application Is Now Complete		↑
06-01-2001	Notice Mailed--Application Incomplete--Filing Date Assigned		↑
05-14-2001	Correspondence Address Change		↑
12-20-2000	IFW Scan & PACR Auto Security Review		↑
11-16-2000	Initial Exam Team nn		↑

Close Window

Exhibit C



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,739	11/16/2000	Thomas D. Paasche	9974/56 (BH2090.P2)	5204

757 7590 12/21/2005
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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EXAMINER

ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/714,739	Applicant(s) PAASCHE ET AL.
Examiner James H. Zurita	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 157-199 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 157-199 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/1/05.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1 June 2005 has been entered.

Response to Amendment

On 1 June 2005, Applicant amended claim 157.

Claims 157-199 are pending.

Claims 157 (a method), claim 174 (a system), claim 192 (a method), claim 195 (a method) and claim 197 (a method) are independent.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 157-199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson et al. (US Patent 5,737,539) in view of AMWAY® Products Delivered on your Schedule, Customer Order Worksheet, published 06/24/1998 (hereinafter Amway).

At the onset, the Examiner respectfully notes that applicant requires a system that is *capable of performing* certain functions. The Examiner notes that Edelson is capable of performing functions claimed in applicant's most recent amendment.

As per claim 157 Edelson discloses methods for facilitating electronic commerce through a network. The network includes at least one server capable of communicating with remote client computers. The remote client computers have different screens that may be used to place recurring orders in medications and drugs. See, for example, entry screens, Fig. 1 and related text. See also prescription creation screen, Fig. 3 and related text. Edelson discloses:

receiving a first order by an electronic commerce system via a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer, from a browser system for one or more of a plurality of electronic commerce system products or services and corresponding to files stored on said server. See, for example, references to prescriptions (applicant's orders), service or parts orders, Col. 1, lines 1-15, Col. 3, lines 66-Col. 4, line 15, Col. 8, lines 20-62.

generating a first profile, said first profile comprising the first order and specifying a recurrence for the first order. See at least references to prescription profiles, for example, Col. 9, line 65-Col. 10, line 38. See also references to refills, Col. 2, lines 16-41. See also at least references to prescription creation screen, Col. 18, line 54-Col. 21, line 3. See also references to new prescriptions, at least Col. 24, line 60-Col. 26, line 54.

causing the first order to automatically recur one or more times according to the specification. See, for example, references to prescription quantification and to number of times refilling is permitted, Col. 25, line 35-Col. 26, line 54.

Edelson does not specifically mention a **browser** located at a remote client computer. Edelson does not specifically disclose that the products correspond to **web** files. The steps of receiving an order, generating a profile and causing the order to recur would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to disclose a browser located at a remote client computer and that the products correspond to web files because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Alternatively, Edelson discloses that his network can reach nationally, internationally across the **Internet** to multiple clients. See, for example, Col. 47, lines 1-20. See also Fig. 16 and related text. See also at least references to user-device clients (for example Col. 7, lines 16-32), multiple intelligent clients, at least Col. 45, lines 15-30. It is well known that Internet screens are often in the form of HTML web pages that are viewed at remote clients by MICROSOFT and NETSCAPE browsers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to combine Edelson and the use of browsers and web files. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Edelson and the use of browsers and web files for the obvious reason that ease of use is important in facilitating electronic commerce.

In addition, the Examiner notes that it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

As per claim 174 (directed to a system), Edelson discloses at least one server computer capable of communicating with a browser system located at a remote client computer over a network. See, for example, Fig. 16 and related text, which shows a network with at least one server and multiple remote client computers. Edelson discloses that the server comprises executable code tangibly embedded in computer-readable media (i.e., programs) that manage orders for the system. The functions performed by the system include receiving a first order for one or more products or services. See, for example, references to prescriptions (applicant's orders), service or parts orders, Col. 1, lines 1-15, Col. 3, lines 66-Col. 4, line 15, Col. 8, lines 20-62.

The system includes programs that generate a first profile, said first profile comprising the first order and specifying a recurrence for the first order. See at least references to prescription profiles, for example, Col. 9, line 65-Col. 10, line 38. See also references to refills, Col. 2, lines 16-41. See also at least references to prescription creation screen, Col. 18, line 54-Col. 21, line 3. See also references to new prescriptions, at least Col. 24, line 60-Col. 26, line 54.

The system also includes programs that cause the first order to automatically recur one or more times according to the specification. See, for example, references to prescription quantification and to number of times refilling is permitted, at least in Col. 25, line 35-Col. 26, line 54.

Edelson does not specifically mention a **browser** located at a remote client computer. Edelson does not specifically disclose that the products correspond to **web files**.

However these differences are only found in the descriptive material and are not functionally involved in the steps recited. However, the specific browser or web files used for entering and storing data does not patentably distinguish the claimed system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide any type of data entry and data storage mechanism in the system taught by Edelson because the subjective interpretation of data entry and data storage does not patentably distinguish the claimed invention.

In addition, the Examiner notes that it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

As per claim 192, Edelson discloses methods for facilitating electronic commerce through a network, where the network comprises at least one server computer capable of communicating with system(s) located at a remote client computer. The methods and system include:

establishing an automated order in response to the system. See rejection of claim 157.

repetitively sending a product or providing a service in response to (a). See, for example, references to prescription fulfillment, at least Col. 26, line 55-Col. 31, line 45.

As per claim 195, Edelson discloses methods for facilitating electronic ordering of a product or service in response to a user selection through a network, said network comprising at least one server computer capable of communicating with a system located at a remote client computer and establishing a standing order in response to the selection of the product or service. See, for example, references to prescription fulfillment, at least Col. 26, line 55-Col. 31, line 45. See also rejection of claims 157, 174 and 192, above.

As per claim 197, Edelson discloses methods for facilitating electronic commerce in an electronic commerce system through a network, said network comprising at least one server computer capable of communication with a system located at a remote client computer, said method comprising:

- (a) receiving a standing order process selection. See rejection of claim 157.
- (b) providing standing order profile information, the standing order profile information operable to allow a user to set up an automated order system that sends products and/or services to the user at regular intervals, the standing order profile information provided in response to (a). See rejection of claim 157.
- (c) establishing long-term orders of the products and/or services as a function of the regular intervals. See rejection of claim 192.

As per claims 192, 195 and 197, Edelson does not specifically mention a **browser** located at a remote client computer. Edelson does not specifically disclose that the products correspond to **web** files. The steps of receiving an order, generating a profile, causing the order to recur and establishing long-term orders would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to disclose a browser located at a remote client computer and that the products correspond to web files because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Alternatively, Edelson discloses that his network can reach nationally, internationally across the Internet to multiple clients. See, for example, Col. 47, lines 1-20. See also Fig. 16 and related text. See also at least references to user-device clients (for example Col. 7, lines 16-32), multiple intelligent clients, at least Col. 45, lines 15-30. It is well known that Internet screens are often in the form of HTML web pages that are viewed at remote clients by MICROSOFT and NETSCAPE browsers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Edelson and the use of browsers and web files. One of ordinary skill in the art at the time the invention was made would have been motivated

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to combine Edelson and the use of browsers and web files for the obvious reason that ease of use is important in facilitating electronic commerce.

As per claims 158, 176 and 194, Edelson discloses use of the Internet. As to web sites and web files, this claim is rejected on the same grounds as claim 157.

As per claim 159, Edelson discloses a marketing system. See, for example, at least Col. 24, lines 19-59.

As per claim 161, Edelson discloses shipping said first order to a user according to said first profile. See, for example, references to prescription fulfillment, at least Col. 26, line 55-Col.27, line 8.

As per claim 162, Edelson discloses Receive said first order from said registered user. See, for example, references to prescriptions (applicant's orders), service or parts orders, Col. 1, lines 1-15, Col. 3, lines 66-Col. 4, line 15, Col. 8, lines 20-62.

As per claim 163, Edelson discloses first profile further specifies a first recurrence interval upon elapse of which said first order is to recur. See, for examples, references to prescribed intervals, at least in Col. 27, lines 9-28, line 20.

As per claim 164, Edelson discloses first profile further specifies the regularity of said first recurrence interval. See, for examples, references to prescribed intervals, at least in Col. 27, lines 9-28, line 20.

As per claim 165, Edelson discloses Generate multiple standing orders, the multiple standing orders including the first standing order. See, for examples,

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references to prescribed intervals and multiple simultaneous prescriptions, at least in Col. 27, lines 9-28, line 20.

As per claim 166, Edelson discloses allowing a user to modify a first profile.
Col. 14, lines 44-60.

As per claim 167, Edelson discloses allow said user to add [claims 168 and 198: remove] one or more of said plurality of electronic commerce system products or services to said first order. See, for example, at least Col. 18, line 54-Col. 23, line 25.

As per claim 169, Edelson discloses allowing a user to modify the recurrence.
See, for example, at least Col. 25, line 35-Col. 26, line 54.

As per claim 170, Edelson does not specifically disclose the use of a shopping cart. Edelson discloses the use of the Internet, as in Claim 157, 158 and 194. Official Notice is taken that shopping carts are notoriously well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add shopping carts to a web site on the Internet. One of ordinary skill in the art at the time the invention was made would have been motivated to add shopping carts to a web site on the Internet for the obvious reason that a user may be reminded what he has ordered so far.

As per claim 173, Edelson discloses allowing a user to modify the recurrence.
See, for example, at least Col. 25, line 35-Col. 26, line 54.

As per claim 184, Edelson discloses allow a user to modify said first profile.
See, for example, at least Col. 18, line 54-Col. 23, line 25.

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As per claim 193, Edelson discloses creating a standing order profile. See at least references to prescription profiles, for example, Col. 9, line 65-Col. 10, line 38. See also references to refills, Col. 2, lines 16-41. See also at least references to prescription creation screen, Col. 18, line 54-Col. 21, line 3. See also references to new prescriptions, Col. 24, line 60-Col. 26, line 54.

As per claims 160, 162, 171, 172, 178, 180, 189, 190, 196, Edelson does not specifically disclose

- standing order link is provided in response to the selection of the product or service and the standing order is established in response to selection of the standing order link, as in claim 196.
- a multi-level marketing system, as in claims 160 and 180.
- Register a user with said electronic commerce system as a member or IBO, as in claim 162 and 178
- first order for products or services may be specified in eaches or bulk, as in claims 171 and 189
- first order for products or services may be specified in eaches or cases, as in claims 172 and 190

Amway discloses that orders in an MLM system may be recurring or standing orders. Amway also discloses the use of specifics such as start date and end dates of an order and quantities in terms of eaches, cases, unit quantities, lot quantities and bulk shipments. Amway also discloses that orders and products in standing orders may be defined with time intervals upon elapse of which an order is to recur. Multilevel

Marketing is

... a system of retailing in which consumer products are sold by independent businessmen and women (distributors) usually in customers' home. Distributors are also encouraged to build and manage a sales force by recruiting, motivating, supplying and training others to sell the products or service. Distributors compensation is then based on the sales of the entire sales force in addition to personal sales.¹

By definition, MLM systems such as disclosed by Amway may be directed to distributors in multiple levels. As applicant admits,

¹ Definition of MultiLevel Marketing, Barron's Dictionary of Business Terms.

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... it is important to provide different incentives according to roles. One particular group might prefer to get commissions as a reward. Others might prefer not to show commissions as part of their income and might prefer to receive coupons or other types of discounts on merchandise. Further, the names used to distinguish among different classes of participants are often limited only by the collective imagination of a firm's marketing department. Thus one participant may readily recognize his compensation by using an illustrative term (e.g., happy member compensation, or health-conscious role model participant, etc.) where the same participant may be less comfortable with a term such as level-x, or level-y compensation/commission. (see admissions, below)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Edelson and Amway to disclose

- standing order link is provided in response to the selection of the product or service and the standing order is established in response to selection of the standing order link, as in claim 196.
- a multi-level marketing system, as in claims 160 and 180.
- Register a user with said electronic commerce system as a member or IBO; as in claim 162 and 178
- first order for products or services may be specified in eaches or bulk, as in claims 171 and 189
- first order for products or services may be specified in eaches or cases, as in claims 172 and 190

for the obvious reason that this type of marketing permits multiple parties to enjoy income and benefits of selling products.

Edelson and Amway do not specifically disclose

- a mainframe computer, as in claim 175.
- receive said first order for products or services into a shopping cart and generate said first profile from said shopping cart in response to selection of a link associated with the shopping cart, as in claim 188.

However, the specific browser or web files used for entering and storing data does not patentably distinguish the claimed system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide any type of data entry and data storage mechanism in the system taught by Edelson because the subjective interpretation of data entry and data storage does not patentably distinguish the claimed invention.

Claim 168 is rejected on the same grounds as claim 167.

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Claim 177 is rejected on the same grounds as claim 161.

Claim 179 is rejected on the same grounds as claim 159.

Claim 181 is rejected on the same grounds as claim 163.

Claim 182 is rejected on the same grounds as claim 164.

Claim 183 is rejected on the same grounds as claim 165.

Claim 185 is rejected on the same grounds as claim 167.

Claim 186 is rejected on the same grounds as claim 167.

Claim 187 is rejected on the same grounds as claim 169.

Claim 186 is rejected on the same grounds as claim 184.

Claim 191 is rejected on the same grounds as claim 173.

Claim 198 is rejected on the same grounds as claim 167.

Claim 199 is rejected on the same grounds as claim 193.

Response to Arguments

Applicant's arguments filed 1 June 2005 have been fully considered.

Rejection under 35 USC 101 is overcome by amendment.

Applicant argues that Edelson's does not anticipate his order system:

Thus, Edelson et al merely discloses a system that allows a prescriber to easily specify the quantity of a *single* prescription, to be fulfilled *once* at a pharmacy.

In short, Edelson et al. does not disclose or suggest a system that automatically fulfills an order according to a specified recurrence. At best, Edelson discloses a system that will split a single prescription to be fulfilled partially at a local pharmacy at a higher cost and the remainder from a mail order or similar prescription fulfillment service at a lower cost.... Page 10 of response.

In response to this comment, the Examiner notes that Edelson refers to frequency of refilling an item, as in Col. 12, lines 22-43.

As noted previously, Applicant presents no special definition of the term *to order*. The Examiner notes that to “prescribe” is defined as “...to write at the beginning, dictate, order”². As applicant admits, Edelson discloses prescribing medications. “That a person skilled in the art might realize from reading the disclosure that such a particular definition (as now argued) is a possible definition is not a sufficient indication to that person that that particular definition is part of Applicant’s invention as originally filed. Claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application.” *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969). In the instant case, Applicant has not persuasively demonstrated that Examiner applied unreasonable interpretation of the recited feature, that the interpretation is inconsistent with the specification, or that applied interpretation is repugnant to one of ordinary skill in the art.

A “traverse” is a denial of an opposing party’s allegations of fact.³ The Examiner respectfully submits that applicants’ arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants’ arguments and comments as constituting a traverse, applicants’ arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the

² Definition of *prescribe*, MERRIAM WEBSTER’S Collegiate Dictionary

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supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a **reasonable doubt** regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of applicant's failure to adequately traverse official notice, at least the following are admitted prior art:

... web links and on-line order updates are common and well known to one of ordinary skill in the art of electronic commerce.

... user requirements change, often in relationship to fluctuations in the national and international economy. Thus, a user may wish to increase the size of an order for one or more products to meet increased demand for the products. This ability to meet rising demand is critical to the health of a market and provides greater benefit to both purchasers and sellers.

...in order for a computer to process standing orders, it is necessary that the information concerning the standing orders and products be stored in the computer. The data may be stored as one or more records in one or more databases. The data necessary to complete such a record may also be referred to as a profile.

... use of these terms [*order profile, first profile and second profile*] facilitates communication concerning the capabilities of a system. The terms first profile and second profile provide some guidance to those involved in electronic commerce that the items being discussed are separate orders and may combine different products and quantities for each product.

...it is well known that mainframe computers may be linked to various networks to access databases stored on legacy systems.

³ Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

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... the use of single or multiple shopping cards in an e-commerce environment is well known to one of ordinary skill in the art.

... many companies maintain huge databases on mainframes. The data on these machines can be made available without incurring additional costs by creating web-enabled front-end applications. This reduces the cost of implementing a on-line shopping system that may utilize modern web tools. One of the many tools that has become common is an electronic shopping cart. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the use of electronic shopping carts.

... obvious reason that shopping carts are an effective way of tracking items that a buyer wants to buy prior to checking out and actually carrying out a purchase over the Internet. A buyer can use the electronic shopping cart to keep track of what he has selected so far, and how much the contents of the cart will cost. Shopping carts permit efficient shopping sessions, and allows buyers to understand electronic shopping in terms of shopping's analogues in the physical world.

... Compensation is a direct and indirect monetary and nonmonetary reward given on the basis of the value of a job, contributions and performance. It is well known that multi-level marketing provides for several levels of compensation according to specified criteria.

... it is important to provide different incentives according to roles. One particular group might prefer to get commissions as a reward. Others might prefer not to show commissions as part of their income and might prefer to receive coupons or other types of discounts on merchandise. Further, the names used to distinguish among different classes of participants are often limited only by the collective imagination of a firm's marketing department. Thus one participant may readily recognize his compensation by using an illustrative term (e.g., happy member compensation, or health-conscious role model participant, etc.) where the same participant may be less comfortable with a term such as level-x, or level-y compensation/commission.

...in commerce, it is important for orders and quantities [standing orders, specific products in a standing order, and attributes for each product being ordered]to be defined as much as possible. A standing order contract, for example, may require specific amounts of particular products to be shipped. When a seller knows how much of a product must be sent, the seller can plan his inventory more effectively and be able to perform his contractual obligations. Similarly, buyers can make commitments for downstream distribution when they are assured that they will have the materials on hand to sell to a second party. When such planning is not done properly, lawsuits and economic chaos may result. Uncertainty may lead to increased costs to buyers and sellers alike and may ultimately impact the economy as a whole, resulting in lost jobs and opportunities.

... computer-human interaction is facilitated with the use of links from one page to another. On the Web, such links are commonly called hyperlinks. They serve to facilitate the use of a web site according to the business needs of the system.

. It is well known that Internet screens are often in the form of HTML web pages that are viewed at remote clients by MICROSOFT and NETSCAPE browsers. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to combine Edelson and the use of browsers and web files


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JZ
James Zurita
Patent Examiner
Art Unit 3625
6 December 2005


WYNN W. COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



FORM PTO-1449	SERIAL NO. 09/714,739	CASE NO. 9974/56 (Altcor Ref. BH2090.C1)
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE November 16, 2000	GROUP ART UNIT 3625
(use several sheets if necessary)		APPLICANT(S): Thomas D. Paasche et al.

REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

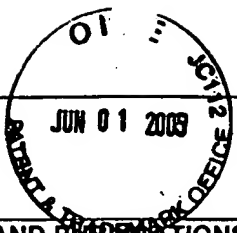
EXAMINER INITIAL		DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
Jz	F1	5,664,110	09/02/97	Green et al.		
	F2	5,960,411 A	09/1999	Hartman et al.		
	F3	6,049,778 A	04/2000	Walker et al.		
	F4	6,115,690 A	09/2000	Wong		
	F5	6,134,533 A	10/2000	Shell		
	F6	6,219,692 B1	04/2001	Stiles		
	F7	6,223,209 B1	04/2001	Watson		
	F8	6,249,773	06/2001	Allard et al.		
	F9	6,282,517 B1	08/2001	Wolfe et al.		
	F10	6,298,373 B1	10/2001	Burns et al.		
	F11	US2001/0034658	10/2001	Silva et al.		
	F12	US2001/0051905	12/2001	Lucas		
	F13	6,370,580 B2	04/2002	Kriegsman		
	F14	US2002/0059114 A1	05/2002	Cockrill et al.		
	F15	6,421,648 B1	07/2002	Gagnon et al.		
	F16	6,578,010 B1	06/2003	Teacherson		
	F17	6,782,369 B1	08/2004	Carrott		
	F18	5,825,884 A	10/1998	Zdepski et al		
	F19	5,592,611 A	01/1997	Midgely et al.		
	F20	5,590,197 A	12/1996	Chen et al.		
	F21	5,548,110 A	08/1996	Storch et al.		
	F22	5,537,314 A	07/1996	Kanter		

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES OR NO

EXAMINER <i>Jane Zante</i>	DATE CONSIDERED <i>12/1/05</i>
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



FORM PTO-1449	SERIAL NO. 09/714,739	CASE NO. 9974/56 (Altior Ref. BH2090.C1)
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE November 16, 2000	GROUP ART UNIT 3625
(use several sheets if necessary)	APPLICANT(S): Thomas D. Paasche et al.	

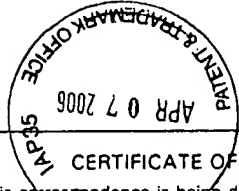
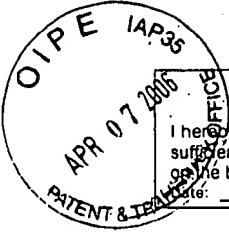
EXAMINER INITIAL	OTHER ART - NON PATENT LITERATURE DOCUMENTS (Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.)	
Jr	F23	English Translation of Japanese Application No. Hei 4-49783 <i>System for Automatically Generating a Repeat Order Record</i> , filed March 6, 1992
	F24	White, Ron, <i>How Computers Work</i> , Millennium Ed. Que Corporation, 9/1999
	F25	Derfler, Frank J. et al., <i>How Networks Work</i> , Millennium Ed. Que Corporation, 1/2000
	F26	Gralla, Preston, <i>How the Internet Works</i> , Millennium Ed. Que Corporation, 8/1999

EXAMINER <i>Jour Zuber</i>	DATE CONSIDERED <i>12/6/01</i>
-------------------------------	-----------------------------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Exhibit D

GP 3628



CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: April 5, 2006 Name: James L. Katz Signature:

**BRINKS
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: William S. Kerker et al.

Appln. No.: 09/714,739

Filed: November 16, 2000

For: System and Method for Managing Recurring Orders in a Computer Network

Attorney Docket No: 9974/56
(Alticor Ref. No. BH2090.C1)

Examiner: J. Zurita
Art Unit: 3625

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- Information Disclosure Statement; for PTO 1449 with references
- Return Receipt Postcard

Fee calculation:

- No additional fee is required.
- Small Entity.
- An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(_____).
- An additional filing fee has been calculated as shown below:

				Small Entity		Not a Small Entity			
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			x 100=			x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

- A check in the amount of \$180 is enclosed.
- Please charge Deposit Account No. 23-1925 in the amount of \$_____ . A copy of this Transmittal is enclosed for this purpose.
- Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Date: 4/5/06

Respectfully submitted,

James L. Katz (Reg. No. 42,711)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: William S. Kerker et al.

Appln. No.: 09/714,739

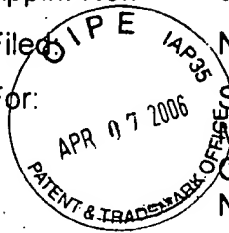
Filed: November 16, 2000

For: **SYSTEM AND METHOD FOR
MANAGING RECURRING
ORDERS IN A COMPUTER
NETWORK**

Attorney Docket No.: 9974-56 (Altacor Ref. No.
BH2090.C1)

Examiner: J. Zurita

Art Unit: 3625



SEVENTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In accordance with the duty of disclosure under 37 C.F.R. §1.56 and §§1.97-1.98, and more particularly in accordance with 37 C.F.R. §1.97(c), Applicants hereby cite the following reference(s):

No.	Date of Publication	Patentee/Applicant/Assignee
US 5,903,877	05-1999	Berkowitz et al.
US 5,995,092	11-1999	Yuen et al.
US 6,014,641	01-2000	Loeb et al.
US 6,332,124	12-2001	Loeb et al.
US 6,338,047	01-2002	Wallman, Steven M. H
US 6,466,671	10-2002	Mallard et al.

Other Art – Non Patent Literature Documents
Bragg, Steven M., Accounting Best Practices, John Wiley and Sons, Inc., 1999
Danish, Sherif & Gannon, Patrick, Building Database-Driven Web Catalogs, McGraw-Hill Companies, Inc., 1998

04/07/2006 HTECKLU1 00000023 09714739

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HOFER
GILSON
& LIONE

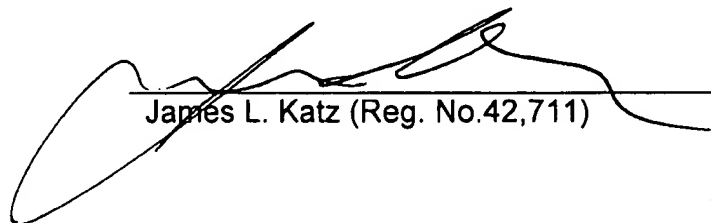
Applicants are enclosing Form PTO-1449 (one sheet), along with a copy of each listed reference for which a copy is required under 37 C.F.R. §1.98(a)(2). As each of the listed references is in English, no further commentary is believed to be necessary, 37 C.F.R §1.98(a)(3). Applicants respectfully request the Examiner's consideration of the above reference(s) and entry thereof into the record of this application.

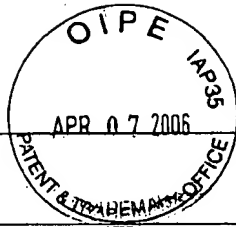
By submitting this Statement, Applicants are attempting to fully comply with the duty of candor and good faith mandated by 37 C.F.R. §1.56. As such, this Statement is not intended to constitute an admission that any of the enclosed references, or other information referred to therein, constitutes "prior art" or is otherwise "material to patentability," as that phrase is defined in 37 C.F.R. §1.56(a).

Applicants have calculated a processing fee in the amount of \$180.00 to be due under 37 C.F.R. §1.17(p) in connection with the filing of this Statement. Applicants have enclosed a check covering this fee, or authorized charging the fee to a deposit account or credit card, as indicated in the Transmittal accompanying this Statement.

Respectfully submitted,

4/5/05
Date


James L. Katz (Reg. No.42,711)



FORM PTO-1449	SERIAL NO. 09/714,739	CASE NO. 9974-56 (Altacor Ref. No. BH2090.C1)
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE November 16, 2000	GROUP ART UNIT 3625
(use several sheets if necessary)		APPLICANT(S): William S. Kerker ET AL.

REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
A1	US 5,903,877	05-1999	Berkowitz et al.	705/26	9-30-1996
A2	US 5,995,092	11-1999	Yuen et al.	725/40	5-13-1997
A3	US 6,014,641	01-2000	Loeb et al.	705/34	12-11-1996
A4	US 6,332,124	12-2001	Loeb et al.	705/1	7-30-1999
A5	US 6,338,047	01-2002	Wallman, Steven M. H.	705/36R	6-24-1999
A6	US 6,466,671	10-2002	Mallard et al.	380/227	9-21-1999
A7					
A8					
A9					
A10					
A11					
A12					
A13					

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES OR NO
A14					
A15					
A16					
A17					
A18					

EXAMINER INITIAL	OTHER ART – NON PATENT LITERATURE DOCUMENTS <small>(Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.</small>
A19	Bragg, Steven M., Accounting Best Practices, John Wiley and Sons, Inc., 1999
A20	Danish, Sherif & Gannon, Patrick, Building Database-Driven Web Catalogs, McGraw-Hill Companies, Inc., 1998
A21	
A22	
A23	
A24	

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Exhibit E



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ALEXANDRIA VA 22313-1450

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Exhibit F



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Thomas D. Paasche et al.
Appln. No.: 09/714,739
Filed: November 16, 2000
For: **SYSTEM AND METHOD FOR
MANAGING RECURRING
ORDERS IN A COMPUTER
NETWORK**
Attorney Docket No: 9974/56 (Alticor Ref. No.
BH2090.C1)

Examiner: J. Zurita
Art Unit: 3625

FOURTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In accordance with the duty of disclosure under 37 C.F.R. §1.56 and §§1.97-1.98, and more particularly in accordance with 37 C.F.R. §1.97(c), Applicants hereby cite the following reference(s):

FOREIGN PATENT DOCUMENTS

Document Number	Date	Country	Translation Yes or No
JP H10-21304	01/23/1998	Japan	yes

OTHER DOCUMENTS

Patent Abstract of Japanese Application No. JP-A-2000-250990 "Virtual Gift System and Gift System", date of publication 09/14/2000, 1 page.
Patent Abstract of Japanese Application No. JP-A-H10-207940 "Network Shopping Device and Network Shopping Method", date of publication 08/07/1998, 1 page.

Applicant is enclosing Form PTO-1449 (one sheet), along with a copy of each listed reference for which a copy is required under 37 C.F.R. §1.98(a)(2). As each of the listed references is in English, no further commentary is believed to be necessary, 37 C.F.R §1.98(a)(3). Applicant respectfully requests the Examiner's consideration of the above reference(s) and entry thereof into the record of this application.

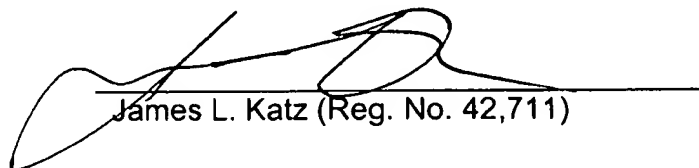
By submitting this Statement, Applicant is attempting to fully comply with the duty of candor and good faith mandated by 37 C.F.R. §1.56. As such, this Statement is not intended to constitute an admission that any of the enclosed references, or other information referred to therein, constitutes "prior art" or is otherwise "material to patentability," as that phrase is defined in 37 C.F.R. §1.56(a).

For purposes of 37 C.F.R. §1.704(d), Applicant certifies that each item of information contained in this Statement was first cited in a communication from a foreign patent office in a counterpart application, and that this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this Statement (a copy of any foreign communication first citing a listed reference is attached for the Examiner's reference).

Applicant certifies under 37 C.F.R. §1.97(e)(1) that each item of information in this Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement (a copy of any foreign communication first citing a listed reference is attached for the Examiner's reference). Accordingly, Applicant has calculated no fee to be due in connection with the filing of this Statement. However, the Director is authorized to charge any fee deficiency associated with the filing of this Statement to a deposit account, as authorized in the Transmittal accompanying this Statement.

Respectfully submitted,

3/21/07
Date


James L. Katz (Reg. No. 42,711)



FORM PTO-1449	SERIAL NO. 09/714,774	CASE NO. 9974/56 (Altacor Ref. No. BH2090.C1)
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT (use several sheets if necessary)	FILING DATE November 16, 2000	GROUP ART UNIT 3625
		APPLICANT(S): Thomas D. Paasche et al.

REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/SUBCLASS	FILING DATE

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	COUNTRY	CLASS/SUBCLASS	TRANSLATION YES OR NO
	D1	JP H10-21304	01/23/1998	Japan	yes

OTHER ART - NON PATENT LITERATURE DOCUMENTS

EXAMINER INITIAL	<small>(Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.</small>				
	D2	Patent Abstract of Japanese Application No. JP-A-2000-250990 "Virtual Gift System and Gift System", date of publication 09/14/2000, 1 page.			
	D3	Patent Abstract of Japanese Application No. JP-A-H10-207940 "Network Shopping Device and Network Shopping Method", date of publication 08/07/1998, 1 page.			

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.